



Sen. William R. Haine

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LRB098 02750 RPM 44598 a

1 AMENDMENT TO SENATE BILL 1411

2 AMENDMENT NO. _____. Amend Senate Bill 1411 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by
5 changing Sections 1510, 1530, 1570, and 1575 as follows:

6 (215 ILCS 5/1510)

7 Sec. 1510. Definitions. In this Article:

8 "Adjusting a claim for loss or damage covered by an
9 insurance contract" means negotiating values, damages, or
10 depreciation or applying the loss circumstances to insurance
11 policy provisions.

12 "Business entity" means a corporation, association,
13 partnership, limited liability company, limited liability
14 partnership, or other legal entity.

15 "Department" means the Department of Insurance.

16 "Director" means the Director of Insurance.

1 "Catastrophic event" means an event that results in large
2 numbers of deaths and injuries; causes extensive damage or
3 destruction of facilities that provide and sustain human needs;
4 produces an overwhelming demand on State and local response
5 resources and mechanisms; causes a severe long-term effect on
6 general economic activity; severely affects State, local, and
7 private sector capabilities to begin and sustain response
8 activities; and is declared to be a catastrophic disaster by
9 the Governor. The Governor's declaration may be made on a
10 county-by-county basis and shall be in effect for 90 days, but
11 may be renewed for 30 day intervals thereafter.

12 "Fingerprints" means an impression of the lines on the
13 finger taken for the purpose of identification. The impression
14 may be electronic or in ink converted to electronic format.

15 "Home state" means the District of Columbia and any state
16 or territory of the United States where the public adjuster's
17 principal place of residence or principal place of business is
18 located. If neither the state in which the public adjuster
19 maintains the principal place of residence nor the state in
20 which the public adjuster maintains the principal place of
21 business has a substantially similar law governing public
22 adjusters, the public adjuster may declare another state in
23 which it becomes licensed and acts as a public adjuster to be
24 the home state.

25 "Individual" means a natural person.

26 "Person" means an individual or a business entity.

1 "Public adjuster" means any person who, for compensation or
2 any other thing of value on behalf of the insured:

3 (i) acts or aids, solely in relation to first party
4 claims arising under insurance contracts that insure the
5 real or personal property of the insured, on behalf of an
6 insured in adjusting a claim for loss or damage covered by
7 an insurance contract;

8 (ii) advertises for employment as a public adjuster of
9 insurance claims or solicits business or represents
10 himself or herself to the public as a public adjuster of
11 first party insurance claims for losses or damages arising
12 out of policies of insurance that insure real or personal
13 property; or

14 (iii) directly or indirectly solicits business,
15 investigates or adjusts losses, or advises an insured about
16 first party claims for losses or damages arising out of
17 policies of insurance that insure real or personal property
18 for another person engaged in the business of adjusting
19 losses or damages covered by an insurance policy for the
20 insured.

21 "Uniform individual application" means the current version
22 of the National Association of Directors (NAIC) Uniform
23 Individual Application for resident and nonresident
24 individuals.

25 "Uniform business entity application" means the current
26 version of the National Association of Insurance Commissioners

1 (NAIC) Uniform Business Entity Application for resident and
2 nonresident business entities.

3 (Source: P.A. 96-1332, eff. 1-1-11.)

4 (215 ILCS 5/1530)

5 Sec. 1530. Examination.

6 (a) An individual applying for a public adjuster license
7 under this Article must pass a written examination unless he or
8 she is exempt pursuant to Section 1535 of this Article. The
9 examination shall test the knowledge of the individual
10 concerning the duties and responsibilities of a public adjuster
11 and the insurance laws and regulations of this State.
12 Examinations required by this Section shall be developed and
13 conducted under rules and regulations prescribed by the
14 Director.

15 (b) The Director may make arrangements, including
16 contracting with an outside testing service, for administering
17 examinations and collecting the nonrefundable fee. Each
18 individual applying for an examination shall remit a
19 nonrefundable fee as prescribed by the Director. An individual
20 who fails to appear for the examination as scheduled or fails
21 to pass the examination shall reapply for an examination and
22 remit all required fees and forms before being rescheduled for
23 another examination. An individual who fails to pass the
24 examination must wait 90 days prior to rescheduling an
25 examination, unless such individual fails to pass the

1 examination by 10 percentage points or less, in which case such
2 individual may reschedule the examination in 7 days.

3 (Source: P.A. 96-1332, eff. 1-1-11.)

4 (215 ILCS 5/1570)

5 Sec. 1570. Public adjuster fees.

6 (a) A public adjuster shall not pay a commission, service
7 fee, or other valuable consideration to a person for
8 investigating or settling claims in this State if that person
9 is required to be licensed under this Article and is not so
10 licensed.

11 (b) A person shall not accept a commission, service fee, or
12 other valuable consideration for investigating or settling
13 claims in this State if that person is required to be licensed
14 under this Article and is not so licensed.

15 (c) A public adjuster may pay or assign commission, service
16 fees, or other valuable consideration to persons who do not
17 investigate or settle claims in this State, unless the payment
18 would violate State law.

19 (d) A public adjuster may not charge, agree to, or accept
20 any compensation, payment, commission, fee, or other valuable
21 consideration in excess of 10% of the amount of the insurance
22 settlement claim paid by the insurer on any claim resulting
23 from a catastrophic event, as defined in Section 1510 of this
24 Code.

25 (Source: P.A. 96-1332, eff. 1-1-11.)

1 (215 ILCS 5/1575)

2 Sec. 1575. Contract between public adjuster and insured.

3 (a) Public adjusters shall ensure that all contracts for
4 their services are in writing and contain the following terms:

5 (1) legible full name of the adjuster signing the
6 contract, as specified in Department records;

7 (2) permanent home state business address and phone
8 number;

9 (3) license number;

10 (4) title of "Public Adjuster Contract";

11 (5) the insured's full name, street address, insurance
12 company name, and policy number, if known or upon
13 notification;

14 (6) a description of the loss and its location, if
15 applicable;

16 (7) description of services to be provided to the
17 insured;

18 (8) signatures of the public adjuster and the insured;

19 (9) date and time the contract was signed by the public
20 adjuster and date and time the contract was signed by the
21 insured;

22 (10) attestation language stating that the public
23 adjuster is fully bonded pursuant to State law; and

24 (11) full salary, fee, commission, compensation, or
25 other considerations the public adjuster is to receive for

1 services.

2 (b) The contract may specify that the public adjuster shall
3 be named as a co-payee on an insurer's payment of a claim.

4 (1) If the compensation is based on a share of the
5 insurance settlement, the exact percentage shall be
6 specified.

7 (2) Initial expenses to be reimbursed to the public
8 adjuster from the proceeds of the claim payment shall be
9 specified by type, with dollar estimates set forth in the
10 contract and with any additional expenses first approved by
11 the insured.

12 (3) Compensation provisions in a public adjuster
13 contract shall not be redacted in any copy of the contract
14 provided to the Director.

15 (c) If the insurer, not later than 5 business days after
16 the date on which the loss is reported to the insurer, either
17 pays or commits in writing to pay to the insured the policy
18 limit of the insurance policy, the public adjuster shall:

19 (1) not receive a commission consisting of a percentage
20 of the total amount paid by an insurer to resolve a claim;

21 (2) inform the insured that loss recovery amount might
22 not be increased by insurer; and

23 (3) be entitled only to reasonable compensation from
24 the insured for services provided by the public adjuster on
25 behalf of the insured, based on the time spent on a claim
26 and expenses incurred by the public adjuster, until the

1 claim is paid or the insured receives a written commitment
2 to pay from the insurer.

3 (d) A public adjuster shall provide the insured a written
4 disclosure concerning any direct or indirect financial
5 interest that the public adjuster has with any other party who
6 is involved in any aspect of the claim, other than the salary,
7 fee, commission, or other consideration established in the
8 written contract with the insured, including, but not limited
9 to, any ownership of or any compensation expected to be
10 received from, any construction firm, salvage firm, building
11 appraisal firm, board-up company, or any other firm that
12 provides estimates for work, or that performs any work, in
13 conjunction with damages caused by the insured loss on which
14 the public adjuster is engaged. The word "firm" shall include
15 any corporation, partnership, association, joint-stock
16 company, or person.

17 (e) A public adjuster contract may not contain any contract
18 term that:

19 (1) allows the public adjuster's percentage fee to be
20 collected when money is due from an insurance company, but
21 not paid, or that allows a public adjuster to collect the
22 entire fee from the first check issued by an insurance
23 company, rather than as a percentage of each check issued
24 by an insurance company;

25 (2) requires the insured to authorize an insurance
26 company to issue a check only in the name of the public

1 adjuster;

2 (3) precludes a public adjuster or an insured from
3 pursuing civil remedies;

4 (4) includes any hold harmless agreement that provides
5 indemnification to the public adjuster by the insured for
6 liability resulting from the public adjuster's negligence;
7 or

8 (5) provides power of attorney by which the public
9 adjuster can act in the place and instead of the insured.

10 (f) The following provisions apply to a contract between a
11 public adjuster and an insured:

12 (1) Prior to the signing of the contract, the public
13 adjuster shall provide the insured with a separate signed
14 and dated disclosure document regarding the claim process
15 that states:

16 "Property insurance policies obligate the insured to
17 present a claim to his or her insurance company for
18 consideration. There are 3 types of adjusters that could be
19 involved in that process. The definitions of the 3 types
20 are as follows:

21 (A) "Company adjuster" means the insurance
22 adjusters who are employees of an insurance company.
23 They represent the interest of the insurance company
24 and are paid by the insurance company. They will not
25 charge you a fee.

26 (B) "Independent adjuster" means the insurance

1 adjusters who are hired on a contract basis by an
2 insurance company to represent the insurance company's
3 interest in the settlement of the claim. They are paid
4 by your insurance company. They will not charge you a
5 fee.

6 (C) "Public adjuster" means the insurance
7 adjusters who do not work for any insurance company.
8 They work for the insured to assist in the preparation,
9 presentation and settlement of the claim. The insured
10 hires them by signing a contract agreeing to pay them a
11 fee or commission based on a percentage of the
12 settlement, or other method of compensation."

13 (2) The insured is not required to hire a public
14 adjuster to help the insured meet his or her obligations
15 under the policy, but has the right to do so.

16 (3) The public adjuster is not a representative or
17 employee of the insurer.

18 (4) The salary, fee, commission, or other
19 consideration is the obligation of the insured, not the
20 insurer, except when rights have been assigned to the
21 public adjuster by the insured.

22 (g) The contracts shall be executed in duplicate to provide
23 an original contract to the public adjuster, and an original
24 contract to the insured. The public adjuster's original
25 contract shall be available at all times for inspection without
26 notice by the Director.

1 (h) The public adjuster shall provide the insurer with an
2 exact copy of the contract by the insured, authorizing the
3 public adjuster to represent the insured's interest.

4 (i) The public adjuster shall give the insured written
5 notice of the insured's rights as a consumer under the law of
6 this State.

7 (j) A public adjuster shall not provide services until a
8 written contract with the insured has been executed, on a form
9 filed with and approved by the Director. At the option of the
10 insured, any such contract shall be voidable for 5 business
11 days after execution, unless there has been a declaration of a
12 catastrophic event, as defined in Section 1510 of this Code, in
13 which case the contract shall be voidable at the option of the
14 insured for 10 calendar days after execution. The insured may
15 void the contract by notifying the public adjuster in writing
16 by (i) registered or certified mail, return receipt requested,
17 to the address shown on the contract or (ii) personally serving
18 the notice on the public adjuster. The contract must indicate
19 the rescission period in clearly visible, bold type and in not
20 less than 10-point font.

21 (k) If the insured exercises the right to rescind the
22 contract, anything of value given by the insured under the
23 contract will be returned to the insured within 15 business
24 days following the receipt by the public adjuster of the
25 cancellation notice.

26 (Source: P.A. 96-1332, eff. 1-1-11; 97-333, eff. 8-12-11.)".